

§ 159-55. Sworn statement of debt; debt limitation; statement of estimated interest on the bonds.

(a) After the bond order has been introduced and before the public hearing thereon, the finance officer (or some other officer designated by the governing board for this purpose) shall file with the clerk a statement showing the following:

- (1) The gross debt of the unit, excluding therefrom debt incurred or to be incurred in anticipation of the collection of taxes or other revenues or in anticipation of the sale of bonds other than funding and refunding bonds. The gross debt (after exclusions) is the sum of (i) outstanding debt evidenced by bonds, (ii) bonds authorized by orders introduced but not yet adopted, (iii) unissued bonds authorized by adopted orders, and (iv) outstanding debt not evidenced by bonds. However, for purposes of the sworn statement of debt and the debt limitation, revenue bonds and project development financing debt instruments (unless additionally secured by a pledge of the issuing unit's faith and credit) shall not be considered debt and shall not be included in gross debt nor deducted from gross debt.
- (2) The deductions to be made from gross debt in computing net debt. The following deductions are allowed:
 - a. Funding and refunding bonds authorized by orders introduced but not yet adopted.
 - b. Funding and refunding bonds authorized but not yet issued.
 - c. The amount of money held in sinking funds or otherwise for the payment of any part of the principal of gross debt other than debt incurred for water, gas, electric light or power purposes, or sanitary sewer purposes (to the extent that the bonds are deductible under subsection (b) of this section), or two or more of these purposes.
 - d. The amount of bonded debt included in gross debt and incurred, or to be incurred, for water, gas, or electric light or power purposes, or any two or more of these purposes.
 - e. The amount of bonded debt included in the gross debt and incurred, or to be incurred, for sanitary sewer system purposes to the extent that the debt is made deductible by subsection (b) of this section.
 - f. The amount of uncollected special assessments theretofore levied for local improvements for which any part of the gross debt (that is not otherwise deducted) was or is to be incurred, to the extent that the assessments will be applied, when collected, to the payment of any part of the gross debt.
 - g. The amount, as estimated by the governing board of the issuing unit or an officer designated by the board for this purpose, of special assessments to be levied for local improvements for which any part of the gross debt (that is not otherwise deducted) was or is to be incurred, to the extent that the special assessments, when collected, will be applied to the payment of any part of the gross debt.
- (3) The net debt of the issuing unit, being the difference between the gross debt and deductions.
- (4) The assessed value of property subject to taxation by the issuing unit, as revealed by the tax records and certified to the issuing unit by the assessor. In calculating the assessed value, the incremental valuation of any

development financing district located in the unit, as determined pursuant to G.S. 159-107, shall not be included.

- (5) The percentage that the net debt bears to the assessed value of property subject to taxation by the issuing unit.

(b) Debt incurred or to be incurred for sanitary sewer system purposes is deductible from gross debt when the combined revenues of the water system and the sanitary sewer system (whether or not the water and sewer system are operated separately or as a consolidated system) were sufficient to pay all operating, capital outlay, and debt service expenditures attributable to both systems in each of the three complete fiscal years immediately preceding the date on which the sworn statement of debt is filed. For the purposes of this subsection, the "revenues" of a water system and a sanitary sewer system include:

- (1) Rates, fees, rentals, charges, and other receipts and income derived from or in connection with the system.
- (2) Fees, rents, or other charges collected from other offices, agencies, institutions, and departments of the issuing unit at rates not in excess of those charged to other consumers, customers, or users.
- (3) Appropriations from the fund balance of the prior fiscal year from the fund or funds established to account for the revenues and expenditures of the water system or sewer system pursuant to G.S. 159-13(a) of the Local Government Budget and Fiscal Control Act.

Before the sworn statement of debt is filed, the secretary shall determine to what extent debt incurred or to be incurred for sanitary sewer system purposes qualifies for deduction from gross debt pursuant to this subsection, and shall give his certificate to that effect. The secretary's certificate shall be filed with and deemed a part of the sworn statement of debt. The secretary's certificate shall be conclusive in the absence of fraud.

(c) No bond order shall be adopted unless it appears from the sworn statement of debt filed in connection therewith that the net debt of the unit does not exceed eight percent (8%) of the assessed value of property subject to taxation by the issuing unit. This limitation shall not apply to:

- (1) Funding and refunding bonds.
- (2) Bonds issued for water, gas, or electric power purposes, or two or more of these purposes.
- (3) Bonds issued for sanitary sewer system purposes when the bonds are deductible pursuant to subsection (b) of this section.
- (4) Bonds issued for sanitary sewers, sewage disposal, or sewage purification plants when the construction of these facilities has been ordered by the Environmental Management Commission, which Commission is hereby authorized to make such an order, or by a court of competent jurisdiction.
- (5) Bonds or notes issued for erosion control purposes.
- (6) Bonds or notes issued for the purpose of erecting jetties or other protective works to prevent encroachment by the ocean, sounds, or other bodies of water.

(d) At the time the bond order is introduced, the finance officer (or some other officer designated by the governing board for this purpose) shall file with the clerk a statement of the finance officer estimating the total amount of interest that will be paid on the bonds over the expected term of the bonds, if issued, and a summary of the assumptions upon which the estimate is based. The statement shall include a statement to the effect that the amount estimated is preliminary and is for general informational purposes only, that there is no assurance that the assumptions upon which the estimate is based will occur, that the occurrence

of certain of the assumptions is beyond the control of the unit, and that differences between the actual circumstances at the time the bonds are issued from the assumptions included in the estimate could result in significant differences between the estimated interest and the actual interest on the bonds. The statement may include other qualifications as the finance officer deems appropriate. The validity of the bonds authorized by the order is not subject to challenge on the grounds that the actual interest cost of the bonds when issued is different than the amount set forth in the statement. The statement shall be filed with the Local Government Commission and maintained by the Clerk. (1917, c. 138, s. 19; 1919, c. 178, s. 3(19); c. 285, s. 4; C.S., s. 2943; 1921, c. 8, s. 1; Ex. Sess. 1921, c. 106, s. 1; 1927, c. 81, ss. 13, 14; c. 102, s. 1; 1931, c. 60, s. 51; 1933, c. 259, s. 1; c. 321; Ex. Sess. 1938, c. 3; 1955, c. 1045; 1959, c. 779, s. 10; 1967, c. 892, s. 4; 1969, c. 1092; 1971, c. 780, s. 1; 1973, c. 494, s. 7; c. 1262, s. 231; 1991, c. 11, ss. 2, 3; 1991 (Reg. Sess., 1992), c. 1007, s. 41; 2003-403, s. 4; 2013-200, s. 1.)